

Union Calendar No. 285

103D CONGRESS
2D SESSION

H. R. 4453

[Report No. 103-516]

A BILL

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

May 19, 1994

Committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1994

Mr. HEFNER, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

A BILL

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 *Be it enacted by the Senate and House of Representatives*
4 *of the United States of America in Congress assembled,*
5 That the following sums are appropriated, out of any
6 money in the Treasury not otherwise appropriated, for the

1 fiscal year ending September 30, 1995, for military con-
2 struction functions administered by the Department of
3 Defense, and for other purposes, namely:

4 MILITARY CONSTRUCTION, ARMY

5 For acquisition, construction, installation, and equip-
6 ment of temporary or permanent public works, military
7 installations, facilities, and real property for the Army as
8 currently authorized by law, including personnel in the
9 Army Corps of Engineers and other personal services nec-
10 essary for the purposes of this appropriation, and for con-
11 struction and operation of facilities in support of the func-
12 tions of the Commander in Chief, \$623,511,000, to re-
13 main available until September 30, 1999: *Provided*, That
14 of this amount, not to exceed \$67,700,000 shall be avail-
15 able for study, planning, design, architect and engineer
16 services, as authorized by law, unless the Secretary of De-
17 fense determines that additional obligations are necessary
18 for such purposes and notifies the Committees on Appro-
19 priations of both Houses of Congress of his determination
20 and the reasons therefor.

21 MILITARY CONSTRUCTION, NAVY

22 For acquisition, construction, installation, and equip-
23 ment of temporary or permanent public works, naval in-
24 stallations, facilities, and real property for the Navy as
25 currently authorized by law, including personnel in the

1 Naval Facilities Engineering Command and other per-
2 sonal services necessary for the purposes of this appropria-
3 tion, \$462,701,000, to remain available until September
4 30, 1999: *Provided*, That of this amount, not to exceed
5 \$47,900,000 shall be available for study, planning, design,
6 architect and engineer services, as authorized by law, un-
7 less the Secretary of Defense determines that additional
8 obligations are necessary for such purposes and notifies
9 the Committees on Appropriations of both Houses of Con-
10 gress of his determination and the reasons therefor.

11 MILITARY CONSTRUCTION, AIR FORCE

12 For acquisition, construction, installation, and equip-
13 ment of temporary or permanent public works, military
14 installations, facilities, and real property for the Air Force
15 as currently authorized by law, \$514,977,000, to remain
16 available until September 30, 1999: *Provided*, That of this
17 amount, not to exceed \$55,900,000 shall be available for
18 study, planning, design, architect and engineer services,
19 as authorized by law, unless the Secretary of Defense de-
20 termines that additional obligations are necessary for such
21 purposes and notifies the Committees on Appropriations
22 of both Houses of Congress of his determination and the
23 reasons therefor.

1 MILITARY CONSTRUCTION, DEFENSE-WIDE

2 (INCLUDING TRANSFER OF FUNDS)

3 For acquisition, construction, installation, and equip-
4 ment of temporary or permanent public works, installa-
5 tions, facilities, and real property for activities and agen-
6 cies of the Department of Defense (other than the military
7 departments), as currently authorized by law,
8 \$467,169,000, to remain available until September 30,
9 1999: *Provided*, That such amounts of this appropriation
10 as may be determined by the Secretary of Defense may
11 be transferred to such appropriations of the Department
12 of Defense available for military construction as he may
13 designate, to be merged with and to be available for the
14 same purposes, and for the same time period, as the ap-
15 propriation or fund to which transferred: *Provided further*,
16 That of the amount appropriated, not to exceed
17 \$45,960,000 shall be available for study, planning, design,
18 architect and engineer services, as authorized by law, un-
19 less the Secretary of Defense determines that additional
20 obligations are necessary for such purposes and notifies
21 the Committees on Appropriations of both Houses of Con-
22 gress of his determination and the reasons therefor.

23 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

24 For construction, acquisition, expansion, rehabilita-
25 tion, and conversion of facilities for the training and ad-

1 ministration of the Army National Guard, and contribu-
2 tions therefor, as authorized by chapter 133 of title 10,
3 United States Code, and military construction authoriza-
4 tion Acts, \$134,235,000, to remain available until Septem-
5 ber 30, 1999.

6 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

7 For construction, acquisition, expansion, rehabilita-
8 tion, and conversion of facilities for the training and ad-
9 ministration of the Air National Guard, and contributions
10 therefor, as authorized by chapter 133 of title 10, United
11 States Code, and military construction authorization Acts,
12 \$209,843,000, to remain available until September 30,
13 1999.

14 MILITARY CONSTRUCTION, ARMY RESERVE

15 For construction, acquisition, expansion, rehabilita-
16 tion, and conversion of facilities for the training and ad-
17 ministration of the Army Reserve as authorized by chapter
18 133 of title 10, United States Code, and military construc-
19 tion authorization Acts, \$39,121,000, to remain available
20 until September 30, 1999.

21 MILITARY CONSTRUCTION, NAVAL RESERVE

22 For construction, acquisition, expansion, rehabilita-
23 tion, and conversion of facilities for the training and ad-
24 ministration of the reserve components of the Navy and
25 Marine Corps as authorized by chapter 133 of title 10,

1 United States Code, and military construction authoriza-
2 tion Acts, \$12,348,000, to remain available until Septem-
3 ber 30, 1999.

4 MILITARY CONSTRUCTION, AIR FORCE RESERVE

5 For construction, acquisition, expansion, rehabilita-
6 tion, and conversion of facilities for the training and ad-
7 ministration of the Air Force Reserve as authorized by
8 chapter 133 of title 10, United States Code, and mili-
9 tary construction authorization Acts, \$56,378,000, to re-
10 main available until September 30, 1999.

11 NORTH ATLANTIC TREATY ORGANIZATION

12 INFRASTRUCTURE

13 For the United States share of the cost of North At-
14 lantic Treaty Organization Infrastructure programs for
15 the acquisition and construction of military facilities and
16 installations (including international military head-
17 quarters) and for related expenses for the collective de-
18 fense of the North Atlantic Treaty Area as authorized in
19 military construction Acts and section 2806 of title 10,
20 United States Code, \$119,000,000, to remain available
21 until expended.

22 FAMILY HOUSING, ARMY

23 For expenses of family housing for the Army for con-
24 struction, including acquisition, replacement, addition, ex-
25 pansion, extension and alteration and for operation and

1 maintenance, including debt payment, leasing, minor con-
2 struction, principal and interest charges, and insurance
3 premiums, as authorized by law, as follows: for Construc-
4 tion, \$160,602,000, to remain available until September
5 30, 1999; for Operation and maintenance, and for debt
6 payment, \$1,121,208,000; in all \$1,281,810,000.

7 FAMILY HOUSING, NAVY AND MARINE CORPS

8 For expenses of family housing for the Navy and Ma-
9 rine Corps for construction, including acquisition, replace-
10 ment, addition, expansion, extension and alteration and
11 for operation and maintenance, including debt payment,
12 leasing, minor construction, principal and interest
13 charges, and insurance premiums, as authorized by law,
14 as follows: for Construction, \$269,035,000, to remain
15 available until September 30, 1999; for Operation and
16 maintenance, and for debt payment, \$853,599,000; in all
17 \$1,122,634,000.

18 FAMILY HOUSING, AIR FORCE

19 For expenses of family housing for the Air Force for
20 construction, including acquisition, replacement, addition,
21 expansion, extension and alteration and for operation and
22 maintenance, including debt payment, leasing, minor con-
23 struction, principal and interest charges, and insurance
24 premiums, as authorized by law, as follows: for Construc-
25 tion, \$276,482,000, to remain available until September

1 30, 1999; for Operation and maintenance, and for debt
2 payment, \$801,345,000 of which not more than
3 \$14,200,000 may be obligated for the acquisition of family
4 housing units at Comiso AB, Italy; in all \$1,077,827,000.

5 FAMILY HOUSING, DEFENSE-WIDE

6 For expenses of family housing for the activities and
7 agencies of the Department of Defense (other than the
8 military departments) for construction, including acquisi-
9 tion, replacement, addition, expansion, extension and al-
10 teration, and for operation and maintenance, leasing, and
11 minor construction, as authorized by law, as follows: for
12 Construction, \$350,000, to remain available for obligation
13 until September 30, 1999; for Operation and maintenance,
14 \$29,031,000; in all \$29,381,000.

15 BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I

16 For deposit into the Department of Defense Base
17 Closure Account established by section 207(a)(1) of the
18 Defense Authorization Amendments and Base Closure
19 and Realignment Act (Public Law 100-526),
20 \$87,600,000, to remain available for obligation until Sep-
21 tember 30, 1995: *Provided*, That none of these funds
22 may be obligated for base realignment and closure activi-
23 ties under Public Law 100-526 which would cause the
24 Department's \$1,800,000,000 cost estimate for military
25 construction and family housing related to the Base Re-

1 alignment and Closure Program to be exceeded: *Provided*
2 *further*, That not less than \$66,800,000 of the funds ap-
3 propriated herein shall be available solely for environ-
4 mental restoration.

5 BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II
6 (INCLUDING TRANSFER OF FUNDS)

7 For deposit into the Department of Defense Base
8 Closure Account 1990 established by section 2906(a)(1)
9 of the Department of Defense Authorization Act, 1991
10 (Public Law 101–510), \$265,700,000, to remain available
11 until expended: *Provided*, That not less than
12 \$138,700,000 of the funds appropriated herein shall be
13 available solely for environmental restoration: *Provided*
14 *further*, That, in addition, not to exceed \$133,000,000
15 may be transferred from “Homeowners Assistance Fund,
16 Defense” to “Base Realignment and Closure Account,
17 Part II”, to be merged with, and to be available for the
18 same purposes and the same time period as that account.

19 BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

20 For deposit into the Department of Defense Base
21 Closure Account 1990 established by section 2906(a)(1)
22 of the Department of Defense Authorization Act, 1991
23 (Public Law 101–510), \$2,322,858,000, to remain avail-
24 able until expended: *Provided*, That not less than

1 \$302,700,000 of the funds appropriated herein shall be
2 available solely for environmental restoration.

3 GENERAL PROVISIONS

4 SEC. 101. None of the funds appropriated in Military
5 Construction Appropriations Acts shall be expended for
6 payments under a cost-plus-a-fixed-fee contract for work,
7 where cost estimates exceed \$25,000, to be performed
8 within the United States, except Alaska, without the spe-
9 cific approval in writing of the Secretary of Defense set-
10 ting forth the reasons therefor.

11 SEC. 102. Funds appropriated to the Department of
12 Defense for construction shall be available for hire of pas-
13 senger motor vehicles.

14 SEC. 103. Funds appropriated to the Department of
15 Defense for construction may be used for advances to the
16 Federal Highway Administration, Department of Trans-
17 portation, for the construction of access roads as author-
18 ized by section 210 of title 23, United States Code, when
19 projects authorized therein are certified as important to
20 the national defense by the Secretary of Defense.

21 SEC. 104. None of the funds appropriated in this Act
22 may be used to begin construction of new bases inside the
23 continental United States for which specific appropria-
24 tions have not been made.

1 SEC. 105. No part of the funds provided in Military
2 Construction Appropriations Acts shall be used for pur-
3 chase of land or land easements in excess of 100 per cen-
4 tum of the value as determined by the Army Corps of En-
5 gineers or the Naval Facilities Engineering Command, ex-
6 cept (a) where there is a determination of value by a Fed-
7 eral court, or (b) purchases negotiated by the Attorney
8 General or his designee, or (c) where the estimated value
9 is less than \$25,000, or (d) as otherwise determined by
10 the Secretary of Defense to be in the public interest.

11 SEC. 106. None of the funds appropriated in Military
12 Construction Appropriations Acts shall be used to (1) ac-
13 quire land, (2) provide for site preparation, or (3) install
14 utilities for any family housing, except housing for which
15 funds have been made available in annual Military Con-
16 struction Appropriations Acts.

17 SEC. 107. None of the funds appropriated in Military
18 Construction Appropriations Acts for minor construction
19 may be used to transfer or relocate any activity from one
20 base or installation to another, without prior notification
21 to the Committees on Appropriations.

22 SEC. 108. No part of the funds appropriated in Mili-
23 tary Construction Appropriations Acts may be used for
24 the procurement of steel for any construction project or
25 activity for which American steel producers, fabricators,

1 and manufacturers have been denied the opportunity to
2 compete for such steel procurement.

3 SEC. 109. None of the funds available to the Depart-
4 ment of Defense for military construction or family hous-
5 ing during the current fiscal year may be used to pay real
6 property taxes in any foreign nation.

7 SEC. 110. None of the funds appropriated in Military
8 Construction Appropriations Acts may be used to initiate
9 a new installation overseas without prior notification to
10 the Committees on Appropriations.

11 SEC. 111. None of the funds appropriated in Military
12 Construction Appropriations Acts may be obligated for ar-
13 chitect and engineer contracts estimated by the Govern-
14 ment to exceed \$500,000 for projects to be accomplished
15 in Japan or in any NATO member country, unless such
16 contracts are awarded to United States firms or United
17 States firms in joint venture with host nation firms.

18 SEC. 112. None of the funds appropriated in Military
19 Construction Appropriations Acts for military construc-
20 tion in the United States territories and possessions in the
21 Pacific and on Kwajalein Atoll may be used to award any
22 contract estimated by the Government to exceed
23 \$1,000,000 to a foreign contractor: *Provided*, That this
24 section shall not be applicable to contract awards for
25 which the lowest responsive and responsible bid of a

1 United States contractor exceeds the lowest responsive
2 and responsible bid of a foreign contractor by greater than
3 20 per centum.

4 SEC. 113. The Secretary of Defense is to inform the
5 Committees on Appropriations and the Committees on
6 Armed Services of the plans and scope of any proposed
7 military exercise involving United States personnel thirty
8 days prior to its occurring, if amounts expended for con-
9 struction, either temporary or permanent, are anticipated
10 to exceed \$100,000.

11 (TRANSFER OF FUNDS)

12 SEC. 114. Unexpended balances in the Military Fam-
13 ily Housing Management Account established pursuant to
14 section 2831 of title 10, United States Code, as well as
15 any additional amounts which would otherwise be trans-
16 ferred to the Military Family Housing Management Ac-
17 count, shall be transferred to the appropriations for Fam-
18 ily Housing, as determined by the Secretary of Defense,
19 based on the sources from which the funds were derived,
20 and shall be available for the same purposes, and for the
21 same time period, as the appropriation to which they have
22 been transferred.

23 SEC. 115. Not more than 20 per centum of the appro-
24 priations in Military Construction Appropriations Acts
25 which are limited for obligation during the current fiscal

1 year shall be obligated during the last two months of the
2 fiscal year.

3 (TRANSFER OF FUNDS)

4 SEC. 116. Funds appropriated to the Department of
5 Defense for construction in prior years shall be available
6 for construction authorized for each such military depart-
7 ment by the authorizations enacted into law during the
8 current session of Congress.

9 SEC. 117. For military construction or family housing
10 projects that are being completed with funds otherwise ex-
11 pired or lapsed for obligation, expired or lapsed funds may
12 be used to pay the cost of associated supervision, inspec-
13 tion, overhead, engineering and design on those projects
14 and on subsequent claims, if any.

15 SEC. 118. Notwithstanding any other provision of
16 law, any funds appropriated to a military department or
17 defense agency for the construction of military projects
18 may be obligated for a military construction project or
19 contract, or for any portion of such a project or contract,
20 at any time before the end of the fourth fiscal year after
21 the fiscal year for which funds for such project were ap-
22 propriated if the funds obligated for such project (1) are
23 obligated from funds available for military construction
24 projects, and (2) do not exceed the amount appropriated
25 for such project, plus any amount by which the cost of
26 such project is increased pursuant to law.

(TRANSFER OF FUNDS)

1
2 SEC. 119. During the five-year period after appro-
3 priations available to the Department of Defense for mili-
4 tary construction and family housing operation and main-
5 tenance and construction have expired for obligation, upon
6 a determination that such appropriations will not be nec-
7 essary for the liquidation of obligations or for making au-
8 thorized adjustments to such appropriations for obliga-
9 tions incurred during the period of availability of such ap-
10 propriations, unobligated balances of such appropriations
11 may be transferred into the appropriation "Foreign Cur-
12 rency Fluctuations, Construction, Defense" to be merged
13 with and to be available for the same time period and for
14 the same purposes as the appropriation to which trans-
15 ferred.

16 SEC. 120. The Secretary of Defense is to provide the
17 Committees on Appropriations of the Senate and the
18 House of Representatives with an annual report by Feb-
19 ruary 15, containing details of the specific actions pro-
20 posed to be taken by the Department of Defense during
21 the current fiscal year to encourage other member nations
22 of the North Atlantic Treaty Organization and Japan and
23 Korea to assume a greater share of the common defense
24 burden of such nations and the United States.

(TRANSFER OF FUNDS)

1
2 SEC. 121. During the current fiscal year, in addition
3 to any other transfer authority available to the Depart-
4 ment of Defense, proceeds deposited to the Department
5 of Defense Base Closure Account established by section
6 207(a)(1) of the Defense Authorization Amendments and
7 Base Closure and Realignment Act (Public Law 100-526)
8 pursuant to section 207(a)(2)(C) of such Act, may be
9 transferred to the account established by section
10 2906(a)(1) of the Department of Defense Authorization
11 Act, 1991, to be merged with, and to be available for the
12 same purposes and the same time period as that account.

13 SEC. 122. The second paragraph under the heading,
14 “Family Housing, Navy and Marine Corps” in title XI
15 of Public Law 102-368, is amended by inserting “and the
16 August 8, 1993 earthquake in Guam” immediately after
17 “Typhoon Omar”.

18 SEC. 123. (a) Of the budgetary resources available
19 to the Department of Defense for military construction
20 and family housing accounts during fiscal year 1995,
21 \$10,421,000 are permanently canceled.

22 (b) The Secretary of Defense shall allocate the
23 amount of budgetary resources canceled among the De-
24 partment’s military construction and family housing ac-
25 counts available for procurement and procurement-related

1 expenses. Amounts available for procurement and procure-
2 ment-related expenses in each such account shall be re-
3 duced by the amount allocated to such account.

4 (c) For the purposes of this section, the definition
5 of “procurement” includes all stages of the process of ac-
6 quiring property or services, beginning with the process
7 of determining a need for a product or services and ending
8 with contract completion and closeout, as specified in 41
9 U.S.C. 403(2).

10 **SEC. 124. COMPLIANCE WITH BUY AMERICAN ACT.**

11 No funds appropriated pursuant to this Act may be
12 expended by an entity unless the entity agrees that in ex-
13 pending the assistance the entity will comply with sections
14 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-
15 10c, popularly known as the “Buy American Act”).

16 **SEC. 125. SENSE OF CONGRESS; REQUIREMENT REGARD-**
17 **ING NOTICE.**

18 (a) PURCHASE OF AMERICAN-MADE EQUIPMENT
19 AND PRODUCTS.—In the case of any equipment or prod-
20 ucts that may be authorized to be purchased with financial
21 assistance provided under this Act, it is the sense of the
22 Congress that entities receiving such assistance should, in
23 expending the assistance, purchase only American-made
24 equipment and products.

1 (b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In
2 providing financial assistance under this Act, the Sec-
3 retary of the Treasury shall provide to each recipient of
4 the assistance a notice describing the statement made in
5 subsection (a) by the Congress.

6 **SEC. 126. PROHIBITION OF CONTRACTS.**

7 If it has been finally determined by a court or Federal
8 agency that any person intentionally affixed a fraudulent
9 label bearing a “Made in America” inscription, or any in-
10 scription with the same meaning, to any product sold in
11 or shipped to the United States that was not made in the
12 United States, such person shall be ineligible to receive
13 any contract or subcontract made with funds provided
14 pursuant to this Act, pursuant to the debarment, suspen-
15 sion, and ineligibility procedures described in section
16 9.400 through 9.409 of title 48, Code of Federal Regula-
17 tions.

18 This Act may be cited as the “Military Construction
19 Appropriations Act, 1995”.

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